

201205296
Kevin Martin

On April 19, 2012, PO Kevin Martin and other officers drove by a building in the Bronx where there were some individuals in the lobby and some outside. The building was a so-called “Clean Halls” building (under this program, the NYPD would enter the hallways of private buildings with the permission of the landlord or management company and seek confirmation of residency from those in the hallways, then arrest people for trespassing if they could not prove they lived in the building). The officers entered the building and began interacting with the individuals.

At the same time, a man who had been visiting his girlfriend exited an elevator and started to leave the building. Before he could PO Martin stopped him and asked him if he lived in the building. The man told Officer Martins he did not live in the building but that he was visiting his girlfriend. PO Martin told the man to step against the hallway wall and he complied. PO Martin told the man to put his hands against the wall and he complied. Twice during the encounter, the man started to lower his hands and PO Martin slammed his hands up against the wall. PO Martin searched the man’s pockets, removed the man’s wallet from his rear pocket, took a picture of the man’s identification, threw the identification on the floor, and left. The entire incident, as described above, was captured on the building’s security cameras, which the CCRB obtained.

When PO Martin was interviewed at the CCRB, he provided a statement before being shown the video footage. According to his initial statement, the man was not exiting but was among the group in the lobby. According to PO Martin’s initial statement, he did not tell the man to step against the wall but the encounter happened by the wall. According to PO Martin’s initial statement, he did not tell the man to put his hands up against the wall and did not slam them against the wall. He denied searching the man’s pockets or throwing his ID to the floor.

When shown the video that contradicted his statement, PO Martin did not change his statement. He said that he pushed the man’s hands against the wall because the man had thrust them in his face (in his original statement he had denied pushing the hands against the wall, and in any event the video shows the man did not thrust them in his face). He denied searching the man’s pockets, claiming that his hands were frisking the man’s waistband even as the video showed him taking the man’s wallet from his rear pocket. When asked how he obtained the man’s identification (while looking at the video that shows him reaching into a rear pocket and taking it) PO Martin stated that the man must have given it to him during a moment not captured on the video.

The CCRB substantiated allegations that PO Martin improperly stopped, improperly searched, improperly threatened to arrest, and improperly used physical force against the man. The NYPD disciplined him by revoking 15 vacation days.

The NYPD found that PO Martin’s statement was “misleading,” compelled him to forfeit 20 vacation days, and the finding that he made a misleading statement was disclosed in a Brooklyn DA letter.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nina Mickens	Team: Team # 2	CCRB Case #: 201205296	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thu, 04/19/2012 8:49 PM	Location of Incident: [REDACTED]	Precinct: 46	18 Mo. SOL 10/19/2013	EO SOL 10/19/2013	
Date/Time CV Reported Thu, 04/19/2012 8:50 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/26/2012 10:10 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Andy Roque	23783	§ 87(2)(b)	046 PCT
2. POM Salvatore Tevere	16614	§ 87(2)(b)	046 PCT
3. POM Kevin Martin	24921	§ 87(2)(b)	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Kevin Martin	Abuse of Authority: PO Kevin Martin stopped § 87(2)(b) .	A . § 87(2)(g)
B . POM Salvatore Tevere	Abuse of Authority: PO Salvatore Tevere stopped § 87(2)(b) .	B . § 87(2)(g)
C . POM Kevin Martin	Abuse of Authority: PO Kevin Martin stopped § 87(2)(b) .	C . § 87(2)(g)
D . POM Salvatore Tevere	Abuse of Authority: PO Salvatore Tevere frisked § 87(2)(b) .	D . § 87(2)(g)
E . POM Kevin Martin	Abuse of Authority: PO Kevin Martin frisked § 87(2)(b) .	E . § 87(2)(g)
F . POM Kevin Martin	Abuse of Authority: PO Kevin Martin searched § 87(2)(b) and § 87(2)(b) .	F . § 87(2)(g)
G . POM Kevin Martin	Abuse of Authority: PO Kevin Martin threatened to arrest § 87(2)(b) .	G . § 87(2)(g)
H . POM Kevin Martin	Force: PO Kevin Martin used physical force against § 87(2)(b) .	H . § 87(2)(g)
I . POM Kevin Martin	Discourtesy: PO Kevin Martin acted rudely toward § 87(2)(b) .	I . § 87(2)(g)
J . POM Kevin Martin	Discourtesy: PO Kevin Martin spoke discourteously to § 87(2)(b) .	J . § 87(2)(g)
§ 87(4-b), § 87(2)(g)	[REDACTED]	
§ 87(4-b), § 87(2)(g)	[REDACTED]	
§ 87(4-b), § 87(2)(g)	[REDACTED]	

Officer(s)	Allegation	Investigator Recommendation
N § 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
P . POM Kevin Martin	Other: PO Kevin Martin provided a false official statement as per Patrol Guide Section 203-08, when he said § 87(2)(b) was in the lobby with men and women and when he denied entering § 87(2)(b) pants	P . § 87(2)(g)

Case Summary

On April 19, 2012, § 87(2)(b) called the Internal Affairs Bureau a few minutes after his interaction with the police (encl. 6A) IAB log # 12-21468 was received at the CCRB on April 26, 2012.

On April 19, 2012, at approximately 8:44 p.m., PO Kevin Martin and PO Salvatore Tevere stopped two unidentified individuals in the lobby of § 87(2)(b) in the Bronx. § 87(2)(b) arrived a few minutes after and was stopped by PO Martin. The following allegations resulted:

- **Allegation A – Abuse of Authority: PO Kevin Martin stopped an individual.**
- **Allegation B – Abuse of Authority: PO Salvatore Tevere stopped an individual.**
§ 87(2)(g)
- **Allegation C – Abuse of Authority: PO Kevin Martin stopped** § 87(2)(b)
- **Allegation D – Abuse of Authority: PO Salvatore Tevere frisked** § 87(2)(b)
- **Allegation E – Abuse of Authority: PO Kevin Martin frisked** § 87(2)(b)
- **Allegation F – Abuse of Authority: PO Kevin Martin searched** § 87(2)(b) **and** § 87(2)(b)

§ 87(2)(g)

- **Allegation G – Abuse of Authority: PO Kevin Martin threatened to arrest** § 87(2)(b)

§ 87(2)(g)

- **Allegation H – Force: PO Kevin Martin used physical force against** § 87(2)(b)
- **Allegation I – Discourtesy: PO Kevin Martin acted rudely toward** § 87(2)(b)

§ 87(2)(g)

- **Allegation J – Discourtesy: PO Kevin Martin spoke discourteously to** § 87(2)(b)

§ 87(2)(g)

- § 87(4-b), § 87(2)(g)

- § 87(4-b), § 87(2)(g)
- **Allegation P – Other Misconduct: PO Kevin Martin provided a false official statement as per Patrol Guide Section 203-08, when he said § 87(2)(b) was in the lobby with men and women and when he denied entering § 87(2)(b)'s pants.**
§ 87(2)(g)

This case was originally assigned to Investigator Cordell Hackshaw. Upon his resignation, the case was reassigned to Investigator Rosemary Espinal on August 21, 2012. Upon her promotion, the case was reassigned to ASI Nina Mickens on May 22, 2013 for the purposes of closure.

Results of Investigation

Video Footage

The following is a description of the video footage taken from the surveillance camera at § 87(2)(b) in the Bronx on April 19, 2012. There is no audio and the footage is time stamped. Cameras 1-6, 8, 11, 15 and 16 are the only available views.

- 8:31:50 (Camera 4 and Camera 6) - Two black women enter the lobby from along the hallway of the first floor side entrance.
- 8:35:50 (Camera 2) - Two black men, one wearing a baseball cap with a hooded shirt on his head, a denim buttoned jacket and white sneakers and the other is wearing all dark colored clothing and a striped shirt, are standing outside the front entrance. Both males have a cell phone in their hands. The male with dark clothing presses a bell several times and uses his cell phone.
- 8:39:40 (Camera 15) - § 87(2)(b) appears in the hallway of one of the floors. He is wearing a white long sleeve shirt, a black baseball cap worn to the back. He walks towards the exit and elevators on the floor but then turns back around to where he came from.
- 8:41:26 - 8:41:30 (Camera 1, Camera 3, Camera 5 and Camera 6) - A marked police car makes a right onto § 87(2)(b) from § 87(2)(b) and drives by § 87(2)(b) on the opposite side of the street. At the time, the two men are still outside of the building. As the police car passes the building, the men gain entry from a woman with a key. The men were not inside the building at the time that the police car passed by the front entrance of the building. The black males remained in the lobby and stand near the mailboxes. The two black women are still seated on the steps and do not appear to converse with the males.
- 8:43:06 (Camera 15) - § 87(2)(b) appears on the § 87(2)(b) hallway again, walking towards the stairway and makes a right turn where the elevators are located.
- 8:43:06 (Camera 1) - At the same time § 87(2)(b) goes to the § 87(2)(b) elevator, a marked police car arrives by the left side entrance of the building.
- 8:43:35- 8:43:50 - (Camera 1, Camera 4, Camera 5 and Camera 6) PO Martin, PO Tevere and PO Roque, respectively, walk up the hallway from the side entrance. PO Martin approached the black man with the hood on, who was now on his cell phone. PO Martin immediately took away the phone from the man (Camera 5), quickly looked at the screen and turns away from the camera

view (Camera 6). PO Martin began to search the man immediately. PO Tevere touched the other man's jacket and turns the man toward the wall with his hands up. PO Tevere's arm lowers near the man's lower body but it is not clear from the camera view whether PO Tevere is entering any pockets. PO Roque does not interact with the men.

- 8:44:15 (Camera 5 and Camera 6) - PO Martin makes arm motions, opening the man's jacket, going into the man's left pant pocket, lifting up the man's shirt exposing his waistband and t-shirt.
- 8:44:25 (Camera 6) - § 87(2)(b) gets off the elevator alone and walks toward the front door. PO Martin looks at him and continues to search the individual he stopped. § 87(2)(b) looks towards the officers but keeps walking towards the entrance door without interacting with anyone.
- 8:44:29 (Camera 6) - As § 87(2)(b) goes down the short flight of stairs, PO Martin leaves the man he had stopped and follows behind § 87(2)(b). He indicates to § 87(2)(b) to come up the stairs. § 87(2)(b) complies and he and PO Martin speak to each other. PO Martin makes a motion to § 87(2)(b) to extend his arms. § 87(2)(b) complies and PO Martin walks forward causing § 87(2)(b) to back up against the wall.
- 8:44:50 (Camera 6) - PO Martin touches § 87(2)(b)'s waist. PO Tevere continues to frisk the man he has stopped and opens the man's jacket. PO Roque stands guard over the man PO Martin had originally searched.
- 8:44:57 (Camera 6) - PO Martin enters § 87(2)(b)'s right front pants pocket.
- 8:45:00 (Camera 6) - PO Martin searches § 87(2)(b) by reaching into his pants pockets. § 87(2)(b) attempts to put his hands down but PO Martin grabs both § 87(2)(b)'s wrists and slams them against the wall approximately three times and then does it again. PO Tevere and PO Roque stop attending to the two black men and proceed to stand guard by PO Martin. The two women who were on the stairs move away from the front door to the elevators. PO Tevere and PO Roque do not touch § 87(2)(b) and leave the other men standing near the mailboxes.
- 8:45:25 - 8:45:35 (Camera 6) - PO Martin searches through § 87(2)(b)'s pants pockets again and pulls the front of the pant and places his hand inside the front of the pants.
- 8:45:40 - 8:46:14 (Camera 6) - PO Martin removes something from § 87(2)(b)'s rear right pocket and searches it.
- 8:46:27 (Camera 6) - § 87(2)(b) lowers his hands slightly as PO Martin continued to search him but PO Martin slammed them against the wall again.
- 8:46:36 (Camera 6) - PO Martin searches § 87(2)(b)'s rear pants and appears to be going through § 87(2)(b)'s wallet.
- 8:46:47 (Camera 6) - PO Martin uses a cellphone to take a photograph of something in his hand. He does not give the item to § 87(2)(b) and does not place the item in § 87(2)(b)'s pocket.
- 8:47:08 (Camera 6) - PO Martin steps very close to § 87(2)(b)'s face.
- 8:47:20 (Camera 6) - PO Martin threw something towards the exit. He and the other two officers exit through the side entrance.
- 8:47:25 (Camera 6) - § 87(2)(b) goes down the front stairs and makes a call. He bends down to the floor and then exits the building.
- 8:47:42 (Camera 1 and Camera 3) - The officers walk to their parked car from the side exit of the building.
- 8:47:58 (Camera 1 and Camera 6) - § 87(2)(b) exits the building as the officers are driving past the building.

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

§ 87(2)(b) provided a telephone statement on May 1, 2012 (encl. 7A) and was interviewed at the CCRB on May 4, 2012 (encl. 7B-H). § 87(2)(g)

On April 20, 2012, at approximately 8 p.m., § 87(2)(b) went to visit his sister who resides at § 87(2)(b) in the Bronx. The building has 8 floors and 12-13 apartments on each floor. He was wearing black jeans, a pair of basketball shorts and boxers underneath, a black fitted hat and a black hoodie. At approximately 8:45 p.m., § 87(2)(b) took the elevator to the first floor to go to the store. When § 87(2)(b) got off on the 1st floor, there were three male uniformed officers, identified via the investigation as PO Kevin Martin, PO Salvatore Tevere and PO Andy Roque had an unidentified man stopped in the lobby of the building near the mailboxes, five feet away from the elevators and to the right of § 87(2)(b) did not speak to and/or interact with anyone in the lobby and walked towards the exit.

As § 87(2)(b) walked down three stairs leading to the exit, PO Martin followed him and gestured for § 87(2)(b) to come back up the stairs. § 87(2)(b) complied. PO Martin told § 87(2)(b) to put his hands in the air and asked whether he had any drugs or weapons on him. § 87(2)(b) followed the instructions and said he did not have any drugs or weapons. § 87(2)(b) was standing with his back against the wall and PO Martin stood facing him. PO Martin frisked § 87(2)(b) and then searched all of his pants pockets. Next, PO Martin asked for § 87(2)(b)'s identification. Without permission, PO Martin removed § 87(2)(b)'s wallet from his pants pocket and looked through it, removing § 87(2)(b)'s photographs, Metrocard and papers. § 87(2)(b) asked why he was being stopped and PO Martin told him that the superintendent of the building wanted "clean halls" and did not want people in the building loitering and smoking.

PO Martin asked § 87(2)(b) where he was coming from and if he lived there. § 87(2)(b) explained that he was in § 87(2)(b)'s sister's apartment and he did not live there. PO Martin told § 87(2)(b) that he could be arrested for trespassing but § 87(2)(b) questioned how that was possible if he was visiting a relative. § 87(2)(b) attempted to take his hands down but PO Martin told him, "Simon didn't say to put your hands down!" § 87(2)(b) commented that he did not know who Simon was and that he was tired of holding his hands up. PO Martin told § 87(2)(b) that he was not instructed to take his hands down and then grabbed § 87(2)(b)'s hands and slammed them against the wall 6-7 times.

There were two unidentified women sitting on the steps near the lobby entrance. However, they stepped away from the area after observing PO Martin's actions. § 87(2)(b) did not know any of the civilians in the lobby, including the man he originally saw the officers interacting with. PO Martin continued to search through § 87(2)(b)'s pants, placing his hands inside § 87(2)(b)'s pants pockets. PO Martin asked § 87(2)(b) again whether he had drugs on him. § 87(2)(b) responded that he already said no. PO Martin pulled the waistband of § 87(2)(b)'s jeans and placed his hand inside of § 87(2)(b)'s jeans and basketball shorts, then between § 87(2)(b)'s basketball shorts and boxers. PO Martin felt around § 87(2)(b)'s groin area including pulling on § 87(2)(b)'s testicles and said he was looking for drugs.

PO Tevere asked § 87(2)(b) where he lived and was provided the address. § 87(2)(b) then attempted to remove PO Martin's hands out of his pants but PO Martin again grabbed § 87(2)(b)'s hands and slammed them against the wall 4-5 times. PO Martin got extremely close to § 87(2)(b) and blew his breath into § 87(2)(b)'s face. In response, § 87(2)(b) asked PO Martin if he felt big. PO Martin told § 87(2)(b) "Stay the fuck out of here" and asked him if he wanted to be arrested for trespassing. § 87(2)(b) responded again that he was not trespassing. PO Martin then photographed § 87(2)(b)'s identification card with his cell phone (Samsung Galaxy) and threw it down the stairs onto the floor. PO Martin told § 87(2)(b) "Get the fuck out of here!" as he pushed § 87(2)(b)'s wallet into § 87(2)(b)'s chest. PO Martin said he was going to check the address but never went up to § 87(2)(b)'s sister's apartment. The officers immediately left the building through the back entrance.

§ 87(2)(b) went through the front of the building while calling 911 to report the officers. He saw a marked car but did not obtain the number. Later that day, § 87(2)(b) felt discomfort and pain on both of his shoulders as a result of PO Martin banging his arms against the wall. However, § 87(2)(b) did not seek medical attention in regard.

Civilians not interviewed

The investigation was unable to identify the two men who were stopped in the lobby of the building or the two female witnesses who observed. § 87(2)(b) did not know the individuals and the officers did not record anyone's name or addresses in their memo books or in a Stop, Question and Frisk report. Therefore the individuals could not be contacted for a statement.

NYPD Statements:

Subject Officer: POLICE OFFICER KEVIN MARTIN

- PO Martin is a § 87(2)(b)-old white man, 6'0" tall, 200 pounds, red hair and hazel eyes.
- On April 19, 2012, PO Martin worked from 5:30 p.m. to 2:05 a.m. He was assigned to impact conditions with PO Salvatore Tevere and PO Andy Roque. He was dressed in uniform and operated marked vehicle, #§ 87(2)(b).

Memo Book

PO Martin had no memo book entries related to the incident (encl. 8A-B). He noted that at 8:30 p.m., non-crime corrected (91) from a job. 9:30 p.m., meal.

CCRB Testimony

PO Kevin Martin was interviewed at the CCRB on April 16, 2013 (encl. 9A-E). On April 19, 2012, at approximately 8:44 p.m., PO Martin and his partners, PO Tevere and PO Roque, were driving slowly westbound on § 87(2)(b) in the Bronx when PO Martin noticed six individuals, two women and four men, inside the lobby of § 87(2)(b). The two females and one of the males were near the mailboxes in the lobby. PO Martin did not know what they were doing. The two females appeared to be together. There were two other males near the staircase and § 87(2)(b) whom PO Martin identified by name, was at the forefront near the steps to the entrance. Out of all six individuals, PO Martin could only see § 87(2)(b)'s face clearly from his vehicle.

There is a Clean Halls building sign posted near the main entrance and in the lobby which gives PO Martin permission to verify if the people in the lobby lived in the building. PO Martin is familiar with the location and has conducted vertical patrols there. However, on April 19, 2012, PO Martin did not receive any calls from a superintendent or building manager requesting any vertical patrols at the location for the date of the incident.

PO Martin made a U-turn and made the decision to go into the building to verify whether the individuals lived at the location. PO Martin told his partners what he wanted to do. Instead of using the main entrance where he originally saw § 87(2)(b) PO Martin and his partners entered through the side entrance approximately 20 feet away. One of the males ran up the stairs. PO Martin and his partners did not pursue him. The two females were still near the mailboxes. One male was with the two females and another male was standing near the staircase where the other male had run. § 87(2)(b) was talking with the males and females near him and they seemed to be in a group. PO Martin immediately went up to § 87(2)(b) who was still standing at the top of the staircase near the entrance. PO Martin did not recall if § 87(2)(b) had anything in his hands, and did not recall how he was dressed. PO Martin explained to § 87(2)(b) that the location is a Clean Halls building and that police are allowed to stop individuals for that reason.

§ 87(2)(b) was not asked to get against the wall at any point during the incident but a wall was behind § 87(2)(b) as he faced PO Martin. PO Martin asked § 87(2)(b) if he lived in the building and § 87(2)(b) said he was visiting a friend. PO Martin asked § 87(2)(b) where the friend lived but he did not recall § 87(2)(b)'s response. PO Martin asked § 87(2)(b) if the friend was amongst the group in the lobby and he said no. PO Martin initially stated that one of the individuals in the lobby had stated that he lived there and that the other four individuals were hanging out at his apartment. However, during follow up questions, PO Martin stated he did not ask questions to the other two men in the lobby besides § 87(2)(b) and had no interaction with the two women. PO Martin could not account for his partners' actions with § 87(2)(b) or the other individuals.

§ 87(2)(b) became increasingly belligerent, saying that PO Martin only stopped him because of his race and that the NYPD always harasses people. PO Martin told § 87(2)(b) that it was not the 1960's. PO Martin did not recall ever interacting with § 87(2)(b) prior to this incident and did not recognize § 87(2)(b) when shown a photograph of him. PO Martin requested § 87(2)(b)'s identification and § 87(2)(b) refused initially. However, he eventually provided his identification to PO Martin and it confirmed that § 87(2)(b) did not live at the location.

After obtaining the identification, PO Martin frisked § 87(2)(b) for safety and asked if he had weapons. § 87(2)(b) stepped away and put his hands up in front of PO Martin's face. PO Martin asked § 87(2)(b) to put his hands down. When asked why he feared for his safety, PO Martin responded that he did not want to get shot or stabbed and one could never know what people have on them. PO Martin did not recall where exactly he frisked § 87(2)(b) besides the waistband area. He denied placing his hand inside § 87(2)(b)'s pants or boxers, and denied touching § 87(2)(b)'s testicles or groin area. PO Martin did not pull the waistband or look inside § 87(2)(b)'s pants. PO Martin initially stated that he did not recall seeing any bulges on § 87(2)(b). He then stated that he could not recall § 87(2)(b)'s clothing so he could not state if he saw a bulge.

PO Martin explained to § 87(2)(b) again the reason why he needed to frisk him. § 87(2)(b) continued to act belligerent using racial epithets towards PO Martin. PO Martin stated that § 87(2)(b)'s belligerence and raised voice were additional factors that led him to frisk § 87(2)(b). The frisk did not reveal any objects that warranted further investigation. PO Martin denied searching § 87(2)(b).

PO Martin did not recall seeing § 87(2)(b)'s wallet or searching through it and did not know from where § 87(2)(b) removed his identification. PO Martin did not ask § 87(2)(b) to put his arms up or to get against the wall. PO Martin denied pushing § 87(2)(b) against the wall and denied lifting § 87(2)(b)'s arms up or slamming his arms up against the wall.

PO Martin informed § 87(2)(b) that he was subject to arrest because he was in a Clean Halls location, was hanging out in the lobby and that the person he was visiting was not with him at that time. However, PO Martin told § 87(2)(b) that he would not arrest him, and would only note his information to record that he had stopped § 87(2)(b). PO Martin wrote down § 87(2)(b)'s information on a pad that was not his memo book and handed § 87(2)(b) his identification back. When asked why he did not note the information in his memo book, PO Martin said he just did not put them in. PO Martin denied telling § 87(2)(b) to stay "the fuck" out or using any profanity. PO Martin did not recall if he ever saw § 87(2)(b) exit from or if he stopped anyone other than § 87(2)(b). PO Martin confirmed that he did not prepare a Stop, Question and Frisk report for the stop of § 87(2)(b). When asked if there was any reason for not preparing the report, he said he just did not do it.

PO Martin was shown video footage of the incident and recognized himself and his partners. When asked if the two males in the video were the males he discussed in his statement of the incident, PO Martin responded that he did not know what they looked like. When asked if the male he walked up to immediately in the video was § 87(2)(b) he said he did not remember. There are two women sitting on the steps in the lobby. When asked if they were the same women he recalled seeing, PO Martin said the women he was referring to were in the mailbox area, out of the view of the camera.

PO Martin was informed that § 87(2)(b) was the person exiting the elevator based on the investigation. PO Martin acknowledged he was the officer going after § 87(2)(b) but did not know why. PO Martin affirmed that § 87(2)(b) got against the wall on his own. PO Martin denied going into any of § 87(2)(b)'s pockets and said the video shows his hand up above the waist area and not in § 87(2)(b)'s pockets. PO Martin is seen in the video pushing § 87(2)(b) against the wall and also banging § 87(2)(b)'s hands against the wall. PO Martin explained that he did this because § 87(2)(b) was putting his hands in front of PO Martin's face. There is a point in the video where PO Martin is going into § 87(2)(b)'s pants pocket. However, PO Martin said he was just frisking. When asked if he goes inside the pants to the testicles, PO Martin commented that § 87(2)(b) can say whatever he wants, that did not happen."

PO Martin is seen looking down at something and confirmed that it was § 87(2)(b)'s ID. PO Martin said § 87(2)(b) gave him the ID at some point though the video does not show it. PO Martin argues whether the video accurately displays § 87(2)(b)'s hands in the air the entire time because the words "Camera 06" block the view. PO Martin said he may have had a phone in his hands but did not remember taking a picture of anything. PO Martin said that he handed the identification to § 87(2)(b) but did not recall if § 87(2)(b) took it. PO Martin denied throwing it. After the officers leave, § 87(2)(b) was seen bending down near the entrance door. PO Martin indicated that it was not clear what it is that § 87(2)(b) bent over for and said it could have been to tie his shoe.

After seeing the video footage, PO Martin stated there was nothing that he wished to change about his prior statement. What he said occurred before being presented with the video is what happened. PO Martin confirmed that the person he spoke of when he initially provided a statement was § 87(2)(b) who in the footage was wearing the white t- shirt and came off the elevator. PO Martin was shown a photograph of § 87(2)(b) and did not recognize him.

Subject Officer: POLICE OFFICER SALVATORE TEVERE

- § 87(2)(b) -old white male, 6'1" tall, 250 pounds, brown hair, brown eyes.
- On April 19, 2012, PO Tevere worked from 5:30 p.m. to 2:05 a.m. the following day. He was assigned to impact conditions with PO Roque and PO Martin. PO Tevere was dressed in uniform and was assigned to a marked vehicle, #§ 87(2)(b).

Memo Book

PO Tevere had no memo entries related to this incident (encl. 12A-C).

CCRB Statement

PO Salvatore Tevere was interviewed at the CCRB on April 17, 2013 and did not recall much of the incident (encl.13A-D). PO Tevere confirmed that he has been inside of § 87(2)(b) before to conduct vertical patrols and on the date of incident, he did not receive calls or complaints from anyone in the building and nothing drew their attention to any occupants inside. PO Tevere recalled seeing two individuals he could not describe near the elevators and corroborated that PO Roque preceded to a staircase located to the left of the lobby. However, PO Tevere did not recall seeing PO Roque speaking to or having any physical interaction with anyone in the lobby.

PO Tevere believed he may have asked someone why they were in the building and they gave him a reason, he could not recall, but afterwards the individual was free to leave. PO Tevere did not recall if he requested the individual's identification or whether he frisked the individual. PO Tevere did not recall having physical interaction with anyone else in the lobby and did not recall seeing a third person enter the lobby. PO Tevere saw PO Martin and the individual he stopped having a verbal conversation which included a request for the male to place his hands against a wall. PO Tevere did not recall at what distance he was standing from PO Martin and the individual and did not know if he was within hearing distance.

PO Tevere could only see PO Martin with the corner of his eyes but believed PO Martin frisked the individual around his waistband, upper torso, arms, and lower body. PO Tevere did not recall the individuals' demeanor, and did not recall if PO Martin requested the individual's identification. PO Tevere did not remember whether PO Martin searched the individual's pockets. PO Tevere did not hear PO Martin use any obscene statements towards any individual, and did not recall hearing PO Martin tell any individual that he could be arrested for trespassing. PO Tevere did not recall seeing any identification in PO Martin's hands and did not see PO Martin throw any identification on the ground.

Upon seeing video footage, PO Tevere said he did not recognize § 87(2)(b) and did not recall the incident as shown. He only recalled interacting with the two initial individuals and had not independent recollection of the interaction with § 87(2)(b). PO Tevere recognized that he frisked § 87(2)(b) in the lobby, near the mailboxes but did not independently recall the factors that led to the frisk. PO Tevere stated that despite what he saw in the video, his independent recollection of the incident remained the same. He did not want to add to the statement and did not recall any additional information about the incident. PO Tevere did not prepare any Question, Stop and Frisk report for this incident.

Subject Officer: POLICE OFFICER ANDY ROQUE

- § 87(2)(b) -old Hispanic male, 5'5" tall, 138 pounds, black hair, brown eyes.
- On April 19, 2012, PO Roque worked from 3:00 p.m. to 11:23 p.m. He was assigned to impact conditions with PO Kevin Martin and PO Salvatore Tevere. PO Roque was dressed in uniform and was assigned to a marked vehicle, #§ 87(2)(b).

Memo Book

PO Roque had no memo book entries related to the incident (encl. 10A-B)

CCRB Statement

PO Andy Roque was interviewed at the CCRB on April 17, 2013 (encl. 11A-D). PO Roque's § 87(2)(g) is summarized below.

PO Roque did not observe anything unusual occurring in the lobby as he entered and was not aware of any individuals being inside the lobby at the time. He went to a mailbox area where a door leads to a stairway. PO Roque spent approximately one minute by the mailboxes and returned to the main lobby area. When he returned, he saw that PO Martin had § 87(2)(b) stopped against a wall on the right side of the lobby, near the building entrance 5-10 feet from where PO Roque was standing. PO Roque stood next to PO Martin but did not recall where PO Tevere was standing. PO Roque believed § 87(2)(b) exited from the elevators but did not actually see him exit the elevators. PO Roque did not know whether PO Martin asked § 87(2)(b) any questions. § 87(2)(b) made statements but PO Roque did not recall what they were. § 87(2)(b) was agitated as his face looked upset. PO Roque did not know where § 87(2)(b)'s hands were and did not recall if § 87(2)(b) had anything in his hands initially. PO Martin was ordering § 87(2)(b) to place his arms on the wall but § 87(2)(b) did not immediately comply. PO Roque could not recall how many times PO Martin made the request. § 87(2)(b) did not make any threatening gestures with his hands. However, since § 87(2)(b) did not comply with PO Martin's directions, PO Martin grabbed § 87(2)(b)'s hands and pushed them against the wall. PO Roque did not recall how many times PO Martin did this or if PO Martin made any statements while doing so.

PO Martin got within a few inches from § 87(2)(b)'s face and blew a puff of air into § 87(2)(b)'s face. PO Roque saw an item that looked like an ID card in PO Martin's hand but did not know how PO Martin obtained it. PO Roque did not recall seeing § 87(2)(b) take his wallet out or seeing § 87(2)(b) hand his identification to PO Martin. PO Roque did not recall whether PO Martin frisked or searched § 87(2)(b). PO Roque did not observe PO Martin search through § 87(2)(b)'s wallet. As PO Martin was leaving, he threw § 87(2)(b)'s identification with his right hand on the floor. PO Roque's vision was not obstructed at this time. PO Roque did not hear PO Martin tell § 87(2)(b) that he could be arrested for trespassing. PO Roque did not recall hearing PO Martin make any discourteous or obscene statements to § 87(2)(b). PO Roque did not recall whether any other individuals were stopped or frisked in the lobby. PO Roque did not recall any of PO Tevere's actions on the scene because his attention was focused on PO Martin and § 87(2)(b).

PO Roque viewed video footage and said that § 87(2)(b) is the individual whom he stated was stopped by PO Martin after exiting the elevator and he did not remember the interaction with the two unidentified men.

NYPD Documents

Sprint

There were no Sprint jobs generated for the time and location of incident (encl. 16A-C).

Stop, Question and Frisk log and report

There were no handwritten Stop, Question and Frisk reports found for § 87(2)(b) and no Stop, Question and Frisk reports prepared by PO Roque, PO Tevere, or PO Martin on April 19, 2012 (encl. 14A-D).

Roll Call

The 46th Precinct roll call indicated that PO Martin, PO Tevere and PO Roque were assigned to conditions in vehicle number § 87(2)(b) (encl. 15).

Summons/Arrest for Incident and Disposition

- No arrests or summonses resulted from this incident.

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of April 26, 2013, nine months after the filing deadline, with regard to the incident (encl. 17).

Civilians Criminal History

- As of June 27, 2013 Office of Court Administration records reveal no criminal convictions for § 87(2)(b)

Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 4G).

Subject Officers CCRB History

- PO Martin has been a member of the service for seven years and there are three substantiated CCRB allegations against him (encl. 4A-D).
 - In case number 201101547, PO Martin received substantiated allegations for a stop and a frisk allegation. The board recommended command discipline. However, no disciplinary action was taken as the statute of limitations expired.
 - In case number 201114083, PO Martin received a substantiated allegation for a stop. The board recommended charges. The NYPD declined to prosecute the case.
- PO Tevere has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 4E).
- PO Roque has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 4F).

Conclusion

Identification of Subject Officers

PO Martin, PO Tevere, and PO Roque were identified through video footage and confirmed their involvement in the incident.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Kevin Martin stopped an individual.

Allegation B – Abuse of Authority: PO Salvatore Tevere stopped an individual.

It is undisputed that PO Martin and PO Tevere stopped two men in the lobby of § 87(2)(b) in the Bronx. However, the investigation was unable to identify the individuals. § 87(2)(b) who was also stopped, did not know the men and the officers did not record any identifying information about either person in their memo books or in a Stop, Question and Frisk report. PO Martin said that he suspected the males of trespassing after seeing them from outside of the building, standing around in the lobby.

Video footage only partially corroborated PO Martin's statement. Though it did not show the men inside of the lobby at the time that PO Martin was driving by, it did show that the males were outside the building for some time and did not have a key to enter. The men pressed an apartment bell but did not gain access until they followed behind another resident with a key. After which the males were mulling around the lobby until approached by the officers.

§ 87(2)(g)

Allegation C – Abuse of Authority: PO Kevin Martin stopped § 87(2)(b)

It is undisputed that PO Martin stopped § 87(2)(b). However, the factors that led to the stop are in dispute.

§ 87(2)(b) said that he was visiting his sister and exited the elevator in her building, a “Clean Halls” building, to go to the store. He then observed PO Martin with an unidentified male stopped in the lobby while PO Tevere and PO Roque looked on. Two women were seated on the stairs near the building entrance. § 87(2)(b) did not know, speak to or interact with anyone and immediately walked down a few stairs towards the building entrance. PO Martin stopped interacting with the unidentified male and followed behind § 87(2)(b) instructing him to come back up the stairs. The two males and two females that were in the lobby at the time were not identified and did not provide statements about the incident.

PO Martin said that as he and his partners drove past the main entrance of the building, § 87(2)(b) three unidentified males and two females were in the lobby but he was not sure what they were doing. PO Martin could only see § 87(2)(b)'s face clearly from his vehicle. Because it was a Clean Halls building, PO Martin decided to enter to question the individuals about their presence in the building. PO Martin explained that he talked directly to § 87(2)(b) first and did not interact with anyone else. One individual fled, though the officers did not pursue him, and the other individuals stood near the mailboxes. PO Martin questioned § 87(2)(b) about his presence in the building and § 87(2)(b) said he was visiting someone that was not in the lobby with him. PO Martin suspected that § 87(2)(b) was trespassing but did not arrest him or issue a summons, but instead recorded the stop in a note pad that was not his memo book.

PO Martin's statement is not corroborated by the other officers. PO Tevere and PO Roque did not recall anyone being in the lobby that drew their attention to the building. PO Tevere did not recall PO Martin interacting with § 87(2)(b) at all and could only remember actions PO Martin may have taken with the unidentified man PO Martin initially stopped. PO Tevere and PO Roque did not corroborate that anyone fled when the officers entered the building or that other people were inside the lobby besides the two men initially stopped and the women on the stairs. PO Roque did not see when PO Martin initially approached § 87(2)(b) and did not know why § 87(2)(b) was stopped. When shown video footage, PO Tevere still did not recall the incident and did not have a recollection of the incident with PO Martin and § 87(2)(b).

Video footage refuted PO Martin's claim that six individuals were in the lobby when the officers passed by in their car and that § 87(2)(b) was already in the lobby with the individuals. The two females were on the steps inside the lobby and the two unidentified males were standing outside of the building when the officers passed by in their car. § 87(2)(b) is seen on a camera on another floor at the time as well and not in the lobby. § 87(2)(b) is seen exiting from the elevator while PO Martin and PO Tevere were stopping two other individuals. When presented with the footage, PO Martin stated that he did not know why he went after § 87(2)(b) and did not provide another explanation.

In order to stop an individual, an officer must reasonably suspect that the individual has committed, is committing or is about to commit a crime. People v. De Bour, 40 N.Y. 2d 210 (1976) (encl. 1A-J). Mere presence in a Clean Halls building does not provide reasonable suspicion that a person is involved in a crime. People v. Ventura, 193 N.Y.S. 2d 543 (Sup. Ct NY County 2010) (encl. 1O-1Q).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: PO Kevin Martin frisked § 87(2)(b)

Allegation E – Abuse of Authority: PO Salvatore Tevere frisked § 87(2)(b)

Allegation F – Abuse of Authority: PO Kevin Martin searched § 87(2)(b) **and** § 87(2)(b)

It is undisputed that PO Martin searched an unidentified individual and frisked and searched § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) said that after being stopped by PO Martin, he was instructed to put his hands up. § 87(2)(b) complies and PO Martin immediately began to frisk § 87(2)(b)'s waistband and go into his pants pockets. PO Martin also removed § 87(2)(b)'s wallet and went through it. § 87(2)(b) further stated that PO Martin placed his hands inside of § 87(2)(b) Martin's pants and basketball shorts and touched near his genitals. Video footage showed that PO Martin and PO Tevere went up to two unidentified individuals. PO Martin immediately began to search the pockets of the male he stopped. PO Tevere frisked and then searched the male he stopped. The footage show PO Martin taking the male's cell phone, going into the unidentified male's pants pockets and opening up his jacket.

PO Martin denied frisking and or searching the unidentified male. PO Martin stated that he frisked § 87(2)(b) for his safety and asked if § 87(2)(b) had weapons. When asked why he feared for his safety, PO Martin stated that he did not want to get shot or stabbed and one could "never know what people have on them." Additionally, § 87(2)(b) raised his voice and was belligerent which other factors that led to the frisk. PO Martin did not recall where exactly he frisked § 87(2)(b) besides the waistband area but denied pulling the waistband or placing his hand inside § 87(2)(b)'s pants or boxers. PO Martin initially stated that he did not recall seeing any bulges on § 87(2)(b)'s person and after the frisk was conducted, he did not find anything that warranted a search or further investigation. He then stated that he did not recall what § 87(2)(b) was wearing so he could not confirm if he saw bulges or not. Video footage shows that PO Martin entered § 87(2)(b)'s pants pockets, removed an object that he took a picture of with his personal cell phone and pulled § 87(2)(b)'s waistband, entering his pants. PO Martin argued that the video did not show him searching § 87(2)(b) or going into § 87(2)(b)'s pants. Though PO Martin acknowledged that he photographed something with a cell phone, he denied ever removing § 87(2)(b)'s wallet, going through it or entering § 87(2)(b)'s pants.

PO Tevere did not recall frisking the unidentified male he admitted to stopping and had no independent recollection before and after watching video footage of PO Martin interacting with § 87(2)(b). When video footage was presented of PO Tevere's frisk, PO Tevere did not independently recall any statements or actions made by the individual or any additional factors that led to the frisk. PO Tevere stated that he could not recall PO Martin's actions because his focus was only on the individual he stopped. PO Roque corroborated § 87(2)(b)'s allegation that PO Martin frisked § 87(2)(b) but PO Roque could not attest to whether PO Martin searched § 87(2)(b) or frisked and searched the unidentified individual.

An officer may perform a frisk when there is reasonable suspicion that a person is armed or poses a threat to safety. People v. Batista, 88 N.Y. 2d 650 (1996) (encl. 1K-N). An officer may search an individual

in the course of a stop if the officer has probable cause to believe that evidence or contraband is concealed in the individual's clothing or if, in the course a lawful frisk, the officer feels an object in the civilian's clothing that feels as though it may be a weapon. People v. De Bour, 40 N.Y.2d 210 (1976) (encl. 1A-J).

PO Tevere and PO Martin did not provide a reason for approaching the two men in the lobby. PO Tevere did not recall the details of the frisk he conducted or the reasons for it. PO Martin denied ever approaching the males until after footage was shown and then did not explain his reasons for approach. The footage showed that § 87(2)(b) and the males posed no threat to the officers' safety and by their own testimonies, the men were not suspected of having a weapon. When presented with footage, PO Martin did not wish to change his statement and only indicated that he did not know if the males in the video were the males he dealt with on the incident date and maintained that he did not search § 87(2)(b).

§ 87(2)(g)

Allegation G – Abuse of Authority: PO Kevin Martin threatened to arrest § 87(2)(b)

§ 87(2)(b) said that PO Martin told him he could be arrested for trespassing after § 87(2)(b) explained that though he did not live there, he was visiting a relative in the building. Later in the incident, when PO Martin was in § 87(2)(b)'s face, he asked § 87(2)(b) if he wanted to be arrested. § 87(2)(b) reiterated that he could not be arrested if he was visiting family. PO Martin stated that he told § 87(2)(b) that he could be arrested for trespassing because § 87(2)(b) was hanging out in the lobby with someone other than the person he said to have been visiting. PO Tevere and PO Roque could not recall any conversations between § 87(2)(b) and PO Martin regarding § 87(2)(b) being arrested.

A person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises. NY Penal Law section 140.05 (encl. 2A-C).

§ 87(2)(g)

Allegation H – Force: PO Kevin Martin used physical force against § 87(2)(b)

Allegation I – Discourtesy: PO Kevin Martin acted rudely toward § 87(2)(b)

It is undisputed that PO Martin used physical force against § 87(2)(b) and acted rudely towards § 87(2)(b). The circumstances leading up to the force and whether the force was necessary are in question.

§ 87(2)(b) said that he followed PO Martin's instructions to place his hands up as PO Martin began to frisk and search him. After PO Martin went into § 87(2)(b)'s pants, § 87(2)(b) began to pull his arms down. PO Martin told § 87(2)(b) that he did not say § 87(2)(b) could put his hands down and then grabbed § 87(2)(b)'s hands and hit them against the wall several times. § 87(2)(b) put his hands up and pulled them down a second time as PO Martin went into his basketball shorts and boxers. § 87(2)(b) said that PO Martin also blew his breath in § 87(2)(b)'s face and threw his identification on the floor.

PO Martin said that § 87(2)(b) had his hands in his [PO Martin's] face but denied that he used force against § 87(2)(b). He admitted that he had § 87(2)(b)'s identification but was unsure of how he obtained it and denied that he ever threw it. PO Martin also denied blowing his breath in § 87(2)(b)'s face. When presented with the video footage that showed PO Martin striking § 87(2)(b)'s hands against the wall in three separate instances, PO Martin stated that he was responding to § 87(2)(b) placing his hands in his face which he did not previously state. The video shows PO Martin getting close to § 87(2)(b)'s face, flashing a light on what he believed was § 87(2)(b)'s identification and shows § 87(2)(b) bending down. In response to the video of § 87(2)(b) quickly bending and getting back up, PO Martin stated that § 87(2)(b) could have been tying his shoe.

PO Tevere did not recall the interaction between PO Martin and § 87(2)(b). However, PO Roque recalled that PO Martin struck § 87(2)(b)'s hands against the wall. PO Roque stated that § 87(2)(b) was instructed to keep his hands up and pulled them down and it is at that point that PO Martin used force. PO Roque also corroborates § 87(2)(b)'s allegation that PO Martin blew his breath in § 87(2)(b)'s face and also threw § 87(2)(b)'s identification on the floor. Video footage shows that the physical force is what made PO Tevere and PO Roque turn their attention to § 87(2)(b) and PO Martin initially. It did not appear as though § 87(2)(b) made any threatening motions prior to PO Martin striking § 87(2)(b)'s hands against the wall on any of the three occasions.

Officers may use only the minimum amount of force necessary to overcome resistance or to affect an arrest of a resisting subject, Patrol Guide section 203-11 (encl. 3A-B). Officers are directed to be courteous and respectful when making contact with the public, Patrol Guide section 203-09 (encl. 3C).

By PO Martin's own statement, § 87(2)(b) was not under arrest and was not going to be issued a summons. § 87(2)(b)

§ 87(2)(b)
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§ 87(2)(g)

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§ 87(2)(g)

Allegation J – Discourtesy: PO Kevin Martin spoke discourteously to § 87(2)(b)

§ 87(2)(b) said that PO Martin told him to “stay the fuck out of here” and to “get the fuck out of here” towards the end of their interaction. PO Martin denied using profanity at any point. PO Tevere and PO Roque denied hearing PO Martin make these statements.

§ 87(2)(g)

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§ 87(2)(g)
§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Allegation P – Other Misconduct: PO Kevin Martin provided a false official statement as per Patrol Guide Section 203-08, when he said § 87(2)(b) was in the lobby with men and women and when he denied entering § 87(2)(b)'s pants.

PO Martin claimed that § 87(2)(b) was talking to men and women in the lobby of the building and seemed to be part of a group when PO Martin initially approached him. However, video footage showed that § 87(2)(b) exited the elevator alone and did not interact with anyone during the incident before being stopped. PO Martin denied that he placed his hand inside § 87(2)(b)'s pants or boxers. However, video footage showed PO Martin placing his hands inside the front of § 87(2)(b)'s pants. In response to the footage, PO Martin stated that § 87(2)(b) can say whatever he wants, that did not happen."

The intentional making of a false official statement is prohibited and will be subject to disciplinary action. Patrol Guide Section 203-08 (encl. 2D).

Here, video footage shows two statements made by PO Martin during his CCRB interview to be false.

§ 87(2)(g)

[REDACTED]

Team: 2

Investigator:	_____	<u>Nina S. Mickens</u>	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date



Eric Gonzalez
District Attorney

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WWW.BROOKLYNDA.ORG

[INSERT NAME]
Assistant District Attorney

[INSERT DATE]

[INSERT D/C INFO]

Re: [INSERT CASE NAME]
Kings County Dkt./Ind. No. [#####]

In connection with the above-named case, the People voluntarily provide the following information regarding:

MOS NAME: KEVIN MARTIN

MOS TAX: [REDACTED]

in satisfaction (to the extent applicable) of their constitutional, statutory, and ethical obligations. Further, the People reserve the right to move in limine to preclude reference to this information, or otherwise to object to its use and/or introduction into evidence.

Disclosure #1:

THE NYPD ENTERED A DISPOSITION OF OTHER MISCONDUCT NOTED FOR THE FOLLOWING ALLEGATION, DATED 09/26/2008, AGAINST MOS MARTIN:

ALLEGATION:

MISSING PROPERTY – PRISONER

CASE STATUS: CLOSED ON 09/28/2009

Disclosure #2:

THE NYPD ENTERED A DISPOSITION OF OTHER MISCONDUCT NOTED FOR THE FOLLOWING ALLEGATION, DATED 03/25/2009, AGAINST MOS MARTIN:

ALLEGATION:

MISSING PROPERTY – WARRANT

CASE STATUS: CLOSED ON 05/14/2010

Disclosure #3:

THE NYPD ENTERED A DISPOSITION OF OTHER MISCONDUCT NOTED FOR THE FOLLOWING ALLEGATION, DATED 09/28/2009, AGAINST MOS MARTIN:

ALLEGATION:

MISSING PROPERTY – PRISONER

CASE STATUS: CLOSED ON 12/13/2010

Disclosure #4:

MOS IS A NAMED DEFENDANT IN THE FOLLOWING CIVIL ACTIONS:

1. ANTHONY SWEET V. CITY OF NEW YORK, ET AL., 304603/11 FILED IN BRONX COUNTY SUPREME COURT
2. GERMAN MEJAS V. CITY OF NEW YORK, ET AL., 11-CV-3298, FILED IN THE SOUTHERN DISTRICT OF NEW YORK
3. MAUROSOL FELIX, ET AL., V. CITY OF NEW YORK, ET AL., 13-CV-2941 FILED IN THE SOUTHERN

DISTRICT OF NEW YORK

Disclosure #5:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATIONS, AGAINST MOS MARTIN:

1. MOS MARTIN, ASSIGNED TO THE 46TH PRECINCT, ON 10/25/2011 FAILED TO MAKE ACTIVITY LOG ENTRIES REGARDING HIS PARTICIPATION IN AN INCIDENT WHICH OCCURRED AT A TIME, DATE AND LOCATION KNOWN TO THE DEPARTMENT
2. MOS MARTIN ASSIGNED TO THE 46TH PRECINCT, FAILED TO PREPARE A UF-250 REGARDING A STOP WHICH OCCURRED AT A TIME, DATE AND LOCATION KNOWN TO THE DEPARTMENT.

CASE STATUS: CLOSED ON 10/18/2013

PENALTY: SCHEDULE B COMMAND DISCIPLINE, FORFEITURE OF FOUR (4) HOURS OF VACATION.

Disclosure #6:

MOS MARTIN PLED GUILTY TO THE FOLLOWING NYPD DEPARTMENTAL CHARGES AND SPECIFICATIONS ARISING FROM AN INCIDENT ON 04/19/2012 AT APPROXIMATELY 2040 HOURS IN BRONX COUNTY, WHILE MOS MARTIN WAS ON DUTY:

ALLEGATIONS:

1. MOS MARTIN ABUSED HIS AUTHORITY AS MEMBER OF THE NEW YORK CITY POLICE DEPARTMENT IN THAT HE STOPPED A PERSON KNOWN TO THE DEPARTMENT WITHOUT SUFFICIENT LEGAL AUTHORITY.
2. MOS MARTIN ABUSED HIS AUTHORITY AS A MEMBER OF THE NEW YORK CITY POLICE DEPARTMENT IN THAT HE FRISKED SAID PERSON KNOWN TO THE DEPARTMENT WITHOUT SUFFICIENT LEGAL AUTHORITY.
3. MOS MARTIN ABUSED HIS AUTHORITY AS A MEMBER OF THE NEW YORK CITY POLICE DEPARTMENT IN THAT HE SEARCHED AN UNIDENTIFIED INDIVIDUAL WITHOUT SUFFICIENT LEGAL AUTHORITY.
4. MOS MARTIN ABUSED HIS AUTHORITY AS A MEMBER OF THE NEW YORK CITY POLICE DEPARTMENT IN THAT HE SEARCHED SAID PERSON KNOWN TO THE DEPARTMENT WITHOUT SUFFICIENT LEGAL AUTHORITY.
5. MOS MARTIN ENGAGED IN CONDUCT PREJUDICIAL TO THE GOOD ORDER, EFFICIENCY OR DISCIPLINE OF THE NEW YORK CITY POLICE DEPARTMENT, BY THREATENING TO ARREST SAID PERSON KNOWN TO THE DEPARTMENT FOR TRESPASS, WITHOUT SUFFICIENT LEGAL AUTHORITY, IN THAT SAID PERSON KNOWN TO THE DEPARTMENT STATED THAT HE WAS VISITING HIS SISTER IN THE BUILDING.
6. MOS MARTIN DID WRONGFULLY USE FORCE AGAINST SAID PERSON KNOWN TO THE DEPARTMENT, IN THAT HE REPEATEDLY SLAMMED SAID PERSON'S HANDS AGAINST A WALL.
7. MOS MARTIN WAS DISCOURTEOUS TO SAID PERSON KNOWN TO THE DEPARTMENT IN THAT HE BLEW A PUFF OF AIR INTO HIS FACE.
8. MOS MARTIN WAS DISCOURTEOUS TO SAID PERSON KNOWN TO THE DEPARTMENT IN THAT HE THREW SAID PERSON'S IDENTIFICATION CARD TO THE GROUND.

CASE STATUS: CLOSED ON 02/04/2016

PENALTY: FORFEITURE OF FIFTEEN (15 VACATION) DAYS

Disclosure #7:

MOS MARTIN PLED GUILTY TO THE FOLLOWING NYPD DEPARTMENTAL CHARGES AND SPECIFICATIONS, DATED 04/16/2013:

ALLEGATION:

1. DID WRONGFULLY ENGAGE IN CONDUCT PREJUDICIAL TO THE GOOD ORDER, EFFICIENCY AND DISCIPLINE OF THE DEPARTMENT, TO WIT: WHILE BEING INTERVIEWED AT THE CIVILIAN COMPLAINT REVIEW BOARD REGARDING A POLICE INCIDENT WHICH OCCURRED ON OR ABOUT APRIL 19, 2012, DID MAKE INACCURATE AND MISLEADING STATEMENTS.

CASE STATUS: CLOSED ON 02/03/2015

PENALTY: FORFEITURE OF TWENTY (20) VACATION DAYS

Disclosure #8:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATION, DATED 01/04/16, AGAINST MOS MARTIN:

ALLEGATION:

IMPROPERLY FRISKED AN INDIVIDUAL KNOWN TO THE DEPARTMENT.

CASE STATUS: CLOSED ON 02/09/2017

PENALTY: SCHEDULE B COMMAND DISCIPLINE, FORFEITURE OF FOUR (4) HOURS OF VACATION

Disclosure # 9:

MOS MARTIN WAS FOUND GUILTY AFTER DEPARTMENTAL TRIAL OF THE FOLLOWING ALLEGATIONS ARISING FROM AN INCIDENT ON 05/07/2016, ON OR ABOUT 2145 HOURS, IN BRONX COUNTY WHILE MOS WAS ON DUTY: ALLEGATIONS:

1. MOS MARTIN ABUSED HIS AUTHORITY AS A MEMBER OF THE NEW YORK CITY POLICE DEPARTMENT, IN THAT HE STOPPED A PERSON KNOWN TO THE DEPARTMENT WITHOUT SUFFICIENT LEGAL AUTHORITY.
2. MOS MARTIN ABUSED HIS AUTHORITY AS A MEMBER OF THE NEW YORK CITY POLICE DEPARTMENT, IN THAT HE QUESTIONED SAID PERSON KNOWN TO THE DEPARTMENT WITHOUT SUFFICIENT LEGAL AUTHORITY.

CASE STATUS: CLOSED ON 12/07/2017

PENALTY: FORFEITURE OF TEN (10) VACATION DAYS

Disclosure # 10:

MOS MARTIN PLED GUILTY OF THE FOLLOWING DISCIPLINARY ALLEGATIONS ARISING FROM AN INCIDENT ON 10/27/2016 IN BRONX COUNTY WHILE MOS WAS ON DUTY:

ALLEGATIONS:

1. MOS WAS DISCOURTEOUS TO ANOTHER MOS, A LIEUTENANT, KNOWN TO THE DEPARTMENT, IN THAT MOS STATED TO THE LIEUTENANT "IF YOU NEED TO SAY SOMETHING SAY IT TO ME NOW" AND "I'M NOT GOING TO CALL IAB CUZ YOU'RE BOYFRIEND WORKS THERE."
2. MOS ENGAGED IN CONDUCT PREJUDICIAL TO THE GOOD ORDER, EFFICIENCY OR DISCIPLINE OF THE DEPARTMENT, TO WIT: MOS DISOBEYED THE LAWFUL ORDER OF A LIEUTENANT KNOWN TO THE DEPARTMENT, INSTRUCTING MOS MARTIN TO STAY IN THE LIEUTENANT'S OFFICE AND REMAIN SILENT.
3. MOS ENGAGED IN CONDUCT PREJUDICIAL TO THE GOOD ORDER, EFFICIENCY OR DISCIPLINE OF THE DEPARTMENT, TO WIT: MOS DISOBEYED THE LAWFUL ORDER OF A LIEUTENANT KNOWN TO THE DEPARTMENT, INSTRUCTING MOS MARTIN NOT TO ENGAGE IN ANY FURTHER PERFORMANCE OF OVERTIME ASSIGNMENTS.
4. MOS, ON OR ABOUT AND BETWEEN JULY 1, 2016 AND SEPTEMBER 30, 2016, DID FAIL AND NEGLECT TO TIMELY SUBMIT TO THE DEPARTMENT OVERTIME REPORTS FOR A TOTAL OF SIXTY

(60) HOURS OF OVERTIME.
CASE STATUS: CLOSED ON 07/13/2017

PENALTY: THIRTY-TWO (32) PRE-TRIAL SUSPENSION DAYS WITHOUT PAY, FORFEITURE OF THIRTEEN (13) DAYS OF VACATION.

Disclosure #11:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATIONS, DATED 02/07/2019, AGAINST MOS MARTIN:
ALLEGATIONS:

1. INVOICE DISCREPANCY - LAB – MARIJUANA
2. REPORT INCOMPLETE/INACCURATE - PROPERTY CLERK INVOICE

CASE STATUS: CLOSED ON 02/21/2019

PENALTY: VERBAL INSTRUCTIONS

Disclosure #12 (PENDING):

THE FOLLOWING ALLEGATIONS ARE PENDING, DATED 12/03/2019, AGAINST MOS MARTIN:

ALLEGATIONS:

■ [REDACTED]
■ [REDACTED]
[REDACTED]

THE PEOPLE ARE AWARE OF THE FOLLOWING CCRB SUBSTANTIATED AND OR PENDING ALLEGATIONS AGAINST THIS OFFICER:

Disclosure # 13:

CCRB CASE: 201101547

Report Date: 02/06/2011

Incident Date: 02/05/2011

CCRB SUBSTANTIATED ALLEGATIONS:

1. Abuse – Frisk
2. Abuse – Stop

NYPD DISPOSITION: No disciplinary action; no penalty

OTHER MISCONDUCT NOTED:

1. OMN - Failure to prepare a memo book entry
2. OMN - Failure to produce stop and frisk report

NYPD DISPOSITION: No disciplinary action; no penalty.

Disclosure # 14:

CCRB CASE: 201114083

Report Date: 10/31/2011

Incident Date: 10/25/2011

CCRB SUBSTANTIATED ALLEGATION: Abuse – Stop

OTHER MISCONDUCT NOTED: OMN - Failure to prepare a memo book entry

NYPD DISPOSITION AND PENALTY: Command Discipline – B

Disclosure # 15:

CCRB CASE: 201202439

Report Date: 02/23/2012

[REDACTED]

Disclosure # 16:

CCRB CASE: 201205296

Report Date: 04/26/2012

Incident Date: 04/19/2012

CCRB SUBSTANTIATED ALLEGATIONS:

1. Force - Physical force
2. Abuse – Frisk
3. Abuse - Search (of person)
4. Abuse – Stop
5. Abuse - Threat of arrest
6. Discourtesy – Action

NYPD Disposition and Penalty: Guilty on all six charges; Officer forfeited 15 vacation days

OTHER MISCONDUCT NOTED:

1. OMN - Failure to prepare a memo book entry
2. OMN - Failure to produce stop and frisk report
3. OMN - Other Misconduct Other Misconduct

Disclosure # 17:

CCRB CASE: 201600123

Report Date: 01/06/2016

Incident Date: 01/04/2016

CCRB SUBSTANTIATED ALLEGATION: Abuse – Frisk

Disclosure # 18:

CCRB CASE: 201603962

Report Date: 05/09/2016

Incident Date: 05/07/2016

CCRB SUBSTANTIATED ALLEGATIONS:

1. Force - Physical force
2. Abuse – Question
3. Abuse – Stop
4. Abuse - Strip-searched
5. Discourtesy – Word
6. Discourtesy – Word
7. Offensive Lang. – Gender
8. Offensive Lang. – Race

NYPD Disposition: Guilty # 2, Guilty # 3, Not Guilty # 1, Not Guilty # 4, Not Guilty # 5, Not Guilty # 6,
Not Guilty # 7, Not Guilty # 8

NYPD Penalty: Forfeiture of 10 vacation days.

OTHER MISCONDUCT NOTED:

- OMN - Failure to document strip search

NYPD Disposition and Penalty: Instructions

Eric Gonzalez
District Attorney
Kings County